

communicating information about a selection for use in controlling said dispensing system; and (ii) controlling said dispenser.

44. (New) The system of claim 43, further comprising a mechanism for mixing nail polish upon dispensing into a package.

45. (New) The system of claim 43, wherein the dispensing system dispenses through a tip that has a receptacle that is moveable between an open and closed position for assisting the prevention of clogging at the tip.

46. (New) The system of claim 44, wherein the dispensing system dispenses through a tip that has a receptacle that is moveable between an open and closed position for assisting the prevention of clogging at the tip.

47. (New) The system of claim 43, further comprising a spectrophotometer.

#### REMARKS

In the Office Action mailed August 14, 2002, the Examiner objected to the drawings for failing to show the features of the invention as claimed in dependent claim 4. Applicants have amended claim 4 to refer specifically to the housing unit that is comprised of a dispensing and computer system. Applicants respectfully direct the Examiner to Figure 9, originally presented with the application as filed and described in the specification as illustrating the features defined in the claims on pages 17 and 18. Specifically, Figure 9 illustrates the embodiment of the present invention showing a site where the point of sale is the same as the point of dispensing and is a single pod 98, including a cosmetic dispensing system 100 and a computer 18'. Applicants respectfully submit that this amendment overcomes the Examiner's objection.

Additionally, the Examiner rejected independent claim 1 under 35 USC 102(b) as being anticipated by Brown (USPN 5,903,465). The Examiner also rejected independent claim 1 under 35 USC 103(a) as being unpatentable over Brown in view of Lombardi et al. (USPN 6,177,093). By way of the foregoing amendments and the version with markings to show changes attached hereto, Applicants respectfully submit that the newly amended claim 1 overcomes these rejections and is allowable. Additionally, newly presented claims 36-47

are patently distinguishable over the art cited by the Examiner and are, therefore, also allowable.

Specifically, independent claim 1 now states that the custom liquid cosmetic dispensing system comprises, in addition to the dispensing system and the computer, a housing for allowing viewing of the dispensing operation. The housing with viewing stations is described in the specification generally without limitation on pages 17-19 and illustrated in Figure 9, as well as with respect to a description of possible transparent panel portions. This is in sharp contrast to Brown and Lombardi, which feature enclosed dispensing, and fail to teach or suggest viewing of individual ingredients containers.

Additionally, new independent claims 36 and 43 are directed toward a liquid cosmetic that is defined as nail polish. Claim 43 teaches the use of a syringe for dispensing the nail polish, each having an outlet with a nozzle through which ingredients are dispensed by pressure applied to a plunger. Dependent claims 38-39 and 45-46 are also directed toward the dispensing system. This specific dispensing system is described in the specification on pages 14-15, lines 15-35 and 1-16, respectively.

Neither Brown nor Lombardi teach or describe these elements. As stated above, Brown is directed to the formulation of a foundation for facial application. As such, Brown teaches and specifically claims using and mixing of the colors white, yellow, red and black. Applicants' dispensing system, as defined in claims 36 and 47, is directed to the formulation and mixing of nail polish and is not limited in color. Lombardi is directed toward the formulation of lipstick. As such, and unlike Applicants' invention as now claimed, Lombardi teaches and claims heating color pellets and pouring the heated material into a mold to form a solidified mass, or lipstick. Lombardi's materials are not nail polishes and do not pose the same dispensing issues as do nail polishes, which Applicants have addressed herein. Further, Lombardi does not teach the use of a vibrator for mixing a liquid cosmetic or the use of a spectrophotometer for determining a desired nail polish color.

Applicants respectfully submit that newly amended independent claim 1, and newly presented independent claims 36 and 43 overcome the prior art of record. Remaining claims 2-5, 7-9, 37-42, and 44-47 dependent from these claims and are, therefore, also allowable.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible

equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

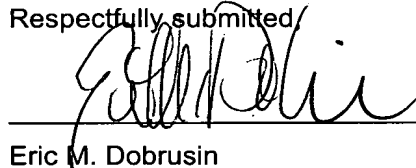
### Conclusions

In view of Applicant's amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicants request that the Examiner contact the undersigned at (248) 593-9900.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge our Deposit Account No. 50-1097 for any fee which may be due.

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Respectfully submitted,

  
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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

1. (Amended) A custom liquid cosmetic dispensing system, comprising:
  - a) a cosmetic dispensing system for dispensing a liquid cosmetic formulation in a liquid state into a package wherein it remains in a liquid state until user application ; and
  - b) a computer for interacting with a retail customer to select a liquid cosmetic formulation and communicating information about a selection for use in controlling said dispensing system,  
wherein said dispensing system is located in a housing that permits viewing of ingredients containers during selection and dispensing of said liquid cosmetic formulation.
4. (Amended) The system of claim 1 [2], wherein said [custom cosmetic dispensing system, said computer and said personal viewing station are integrated into] housing comprises a single pod for point of sale dispensing.
36. (New) A custom nail polish dispensing system, comprising:
  - a) a nail polish dispensing system; and
  - b) a computer for interacting with a retail customer to select a nail polish formulation and communicating information about a selection for use in controlling said dispensing system.
37. (New) The system of claim 36, further comprising a mechanism for mixing nail polish upon dispensing into a package.
38. (New) The system of claim 36, wherein the dispensing system is adapted for dispensing through a syringe driven by plunger.
39. (New) The system of claim 36, wherein the dispensing system dispenses through a tip that has a receptacle that is moveable between an open and closed position for assisting the prevention of clogging at the tip.
40. (New) The system of claim 36, further comprising a spectrophotometer.

41. (New) The system of claim 37, wherein the dispensing system is adapted for dispensing through a syringe driven by plunger.
42. (New) The system of claim 41, wherein the dispensing system dispenses through a tip that has a receptacle that is moveable between an open and closed position for assisting the prevention of clogging at the tip.
43. (New) A custom nail polish dispensing system, comprising:
- a. an automated nail polish dispensing system that includes a plurality of syringe dispensers each having an outlet with a nozzle through which ingredients are dispensed by pressure applied to a plunger; and
  - b. a computer housed in a pod along with said automated nail polish dispenser, for (i) interacting with a retail customer to select a nail polish formulation and communicating information about a selection for use in controlling said dispensing system; and (ii) controlling said dispenser.
44. (New) The system of claim 43, further comprising a mechanism for mixing nail polish upon dispensing into a package.
45. (New) The system of claim 43, wherein the dispensing system dispenses through a tip that has a receptacle that is moveable between an open and closed position for assisting the prevention of clogging at the tip.
46. (New) The system of claim 44, wherein the dispensing system dispenses through a tip that has a receptacle that is moveable between an open and closed position for assisting the prevention of clogging at the tip.
47. (New) The system of claim 43, further comprising a spectrophotometer.